



Planning Department
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OG-08-10-908

October 31, 2008

Hon. James A. Haynes
District Judge – Dept. 2
Twenty-First Judicial District
205 Bedford – Suite B
Hamilton, MT 59840

Re: Menager Court Ordered Split, Cause No.: DP 08-06

Dear Mr. Haynes,

My office has been provided with a preliminary Certificate of Survey (COS) depicting a proposed Court-Ordered division of the Menager property. Ravalli County greatly appreciates your willingness to include the Planning Department in this review opportunity.

The property is currently zoned under the interim zoning regulations adopted through ballot initiative which requires a residential density of one dwelling unit per two acres for subdivisions. The interim zoning expires on November 7, 2008. It is not located in a voluntary zoning district. The Ravalli County Subdivision Regulations are applicable in the area. An exemption to the regulations is being requested under Section 4-4-2 (Qualified Exemptions – Order of a Court) by the current property owners.

The Planning Department has determined that the proposed division does not appear to be for the purpose of evading the subdivision regulations or the MSPA. The Planning Department can generally support the proposed land division and the following comments are offered for the Court's consideration:

1. Written confirmation, from the Environmental Health Department, that each lot meets or exceeds local and State Department of Environmental Quality (DEQ) standards for wastewater treatment and potable water (wells) should be obtained. You may also wish to consider conditioning your approval on the property owner(s) obtaining DEQ approval, which is consistent with SB 290; a law passed in 2005 amending 76-3-604 MCA.
2. Further development of the properties should include, when appropriate, access permits from the road department, additional structures requiring wastewater treatment facilities exemption application, subdivision exemption application, floodplain analysis, and/or subdivision review.
3. Water rights and irrigation practices are routinely subject to intense public debate in Ravalli County's subdivision hearings. Water rights, if any, should be transferred and used on the parcels in order to help protect area water users while guaranteeing access to water on

each tract of land. A master irrigation plan addressing water distribution among the two lots should be filed with the COS, if needed. Allocation of water should be a part of this master irrigation agreement. All irrigations ditches located on the property, if any, should be shown on the COS with a 10-foot easement (5-foot on either side of the ditch) for maintenance purposes.

4. The Gray Wolf, Townsend's Big-eared Bat, Bald Eagle, and Western Skink have been identified as a species of concern in the vicinity of the proposed division. The property owners should contact the Montana Natural Heritage Program for additional information related to species of concern which may be located on or near the subject property.
5. The Planning Department requests a processing fee of \$200.00 to help cover the costs involved in the review and recommendations regarding this proposal. My office is grateful for the assistance of the property owners to help defray the costs to county taxpayers for the staff time and materials that were required for the project. Your inclusion of this fee in a Court-Ordered split will provide my office with the ability to continue to review these types of proposals to help insure the reasonable health, safety, and welfare of all county residents.

Again, thank you for the opportunity to review this proposed Court-ordered division of land. If you have any questions, please contact me at your convenience.

Sincerely,



John Lavey
Interim Director

Cc: County Attorney
Clerk and Recorder
Board of County Commissioners